HONOURABLE SMT.JUSTICE T.MEENA KUMARI

&

HONOURABLE SRI JUSTICE P. LAKSHMANA REDDY

WRIT APPEAL NO. 1075 of 2005

Dated 13th September, 2005

Between:

1. Regional Manager, A.P.S.R.T.C., Srikakulam Division, Srikakulam District and another.

Appellants.

And:

1. P.Satyanarayana, son of Kamaraju, aged 35 years, Door No.3-8-37/C, Gajula Veedhi, Sriklakulam District and others.

Respondents.

JUDGMENT : (Per the Honourable Smt. Justice T.Meena Kumari)

This writ appeal is filed by the Corporation-appellants herein aggrieved by the order in W.P. No: 5494 of 1999, under which the learned single Judge allowed the same with a direction mentioned therein.

The appellants herein are the Corporation and the respondents herein are the writ petitioners. The parties will be referred to as arrayed in the writ petition for the sake of convenience.

The writ petitioners filed the writ petition seeking to declare the action of the Corporation in rejecting their case for absorption into service as already directed in terms of the orders passed in W.P.No.20309 of 1998. The learned single Judge

having observed that in view of the fact that the writ petitioners have pointed out that the Corporation appointed more than hundred employees as Conductors even subsequent to the said ban, there is no justification in rejecting the petitioners' case and further having observed that consequent to the nationalization scheme, the displaced employees have to be provided with an alternative employment, allowed the writ petition directing the Corporation to consider the case of the writ petitioners afresh on merits for absorption into service, subject to the satisfaction as to their employment under the erstwhile owners of the vehicle in question. Aggrieved by the same, the present appeal has been preferred by the Corporation.

Heard the learned counsel, perused the order impugned and the entire material available on record.

The factual matrix of the case of the writ petitioners which led him for filing the writ petition is as follows:

The writ petitioners are displaced employees as consequence of the nationalization scheme. Having regard to the nationalization scheme, the petitioners, who worked under the erstwhile owners of the vehicle, are entitled to be considered for appointment in the corporation on par with several other similar such employees, who have been displaced as a consequence of nationalization. On an earlier occasion, the petitioners have filed W.P. No. 20309 of 1998 and the same was disposed of on 22-07-1998 directing the Corporation to consider the case of the writ petitioners for absorption. But the corporation rejected their case vide impugned order dated 21-01-1999 only on the ground that there is a total ban on further absorption and appointment of displaced employees into service of the Corporation in view of the circular issued by them on 16-07-1998.

It is contended by the learned counsel for the Corporation that the learned single judge ought to have considered the fact that the writ petitioners have already filed writ petition in W.P. No. 20309 of 1998 seeking a direction against the Corporation to absorb the writ petitioners in any suitable post in the Corporation, in which the Corporation was directed to consider the case of the writ petitioners for absorption and therefore, the filing of the present writ petition is not maintainable in view of the principle of resjudicata. It is further contended that the Corporation imposed a ban on absorption and appointment of displaced employees into the service of the Corporation with effect from 15-05-1998 and therefore, the case of the

petitioners cannot be considered.

On the other hand, it is contended by the learned counsel appearing on behalf of the writ petitioners that Corporation appointed more than hundred employees as Conductors even subsequent to the said ban, and therefore, there is no justification on the part of the Corporation in rejecting the petitioner's case and hence, he prayed for dismissal of the appeal.

The fact that remains undisputed is that even subsequent to the alleged ban, the respondent-Corporation appointed more than hundred employees as Conductors. If that being the case, such an action of the respondents amounts to discrimination as rightly observed by the learned single Judge. Therefore, We feel that the order of the learned single Judge, is justified in allowing the claim of the petitioners and We see no merits in this appeal and the same is liable to be dismissed.

In the result, this writ appeal is dismissed. No costs.

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Justice T. Meena Kumari

Date : 13th September, 2005.

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Justice P. Lakshmana Reddy

Dvs/Gurc.

HONOURABLE SMT.JUSTICE T.MEENA KUMARI

&

HONOURABLE SRI JUSTICE P. LAKSHMANA REDDY

WRIT APPEAL NO. 1075 of 2005

(Judgment delivered by the Honourable

Smt. Justice T.Meena Kumari)

Dated 13th September, 2005